



# State of Wisconsin

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February 14, 2007

## MEMORANDUM

**To:** Senator Lassa

**From:** Robin N. Kite, Senior Attorney, (608) 266-7291

**Subject:** Technical Memorandum to **2007 SB-007** (LRB 07-1201/1) by **DOR**

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

February 13, 2007

**TO:** Robin Kite  
Legislative Reference Bureau

**FROM:** Paul Ziegler  
Department of Revenue

**SUBJECT:** Technical Memorandum on SB 7: Mobile and Manufactured Home Definitions

The Department has the following technical comments and concerns regarding the bill that are organized by tax type:

### Property Tax

The proposed definitions of mobile homes and manufactured homes do not mention additions, attachments, annexes, foundations, and appurtenances. Many mobile homes (as defined under current law) include additions, attachments, annexes, foundations, and appurtenances that are taxable as real or personal property under current law, or subject to monthly parking permit fees. Without language referencing the additions and attachments, the assessor may not be able to assess and tax the structures. It is not clear how additions, attachments, annexes, foundations, and appurtenances are intended to be treated under the bill. The following examples illustrate the potential issue:

- Section 70.112(7) exempts property from taxation because it is subject to a special tax, in particular, the monthly municipal permit fee. In this bill, it appears that the additions, attachments, annexes, foundations and appurtenances would not be considered part of the mobile home subject to the fee. As a result, it appears that they would become classified and taxed as personal property, increasing the administrative burden for municipalities and requiring owners to pay property tax through an annual property tax bill rather than as part of their monthly mobile home fee that is spread over a 12-month period.
- Section 66.0435(3)(c)1.a requires the assessor to value each mobile and manufactured home that is subject to the monthly municipal permit fee. In this bill, it appears that additions, attachments, annexes, foundations, and appurtenances would not be considered part of the mobile or manufactured home subject to the fee and included in the value determined by the assessor for fee purposes. As with property under section 70.112(7), it appears that these structures would become classified and taxed as personal property, increasing the administrative burden for municipalities and requiring owners to pay property tax through an annual property tax bill rather than as part of their monthly mobile home fee that is spread over a 12-month period.

- Section 70.043(1) defines mobile and manufactured homes as improvements to real property if they are set on land which is owned by the mobile home owner. Without the reference to additions, attachments, annexes, foundations, and appurtenances, it is not clear if they would still be considered improvements to real property.
- Section 70.043(2) defines mobile and manufactured homes as personal property if they are set on land which is not owned by the mobile home owner. Without the reference to additions, attachments, annexes, foundations, and appurtenances, it is not clear if they would still be considered personal property.

Under current law, section 66.0435(3)(cm) exempts recreational mobile homes and a platform and steps not exceeding 50 square feet from the mobile home parking fee. The bill does not include recreational vehicles in that exemption. If it is the author's intent to exempt recreational vehicles, then section 66.0435(3)(cm) should be amended to include a reference to recreational vehicles.

The bill uses different dimensions in defining types of mobile, manufactured or recreational mobile homes that could result in confusion when trying to apply the correct definition and corresponding tax treatment to a particular property. Some definitions use a 40-foot length, others a 45-foot length. Similarly, some use 400 square feet and others use 320 square feet.

- The definition of a mobile home under the bill would refer to section 101.91(10) of the Wisconsin statutes which limits its application to vehicles manufactured before June 15, 1976, with an overall length in excess of 45 feet.
- A recreational mobile home under 66.0435(1)(hm) incorporates the definition of mobile home. As a result, it would apply to mobile homes assembled before June 15, 1976 with an overall length in excess of 45 feet that meet the ANSI 119.5 requirements and which are no larger than 400 square feet.
- A manufactured home is defined under the bill in section 101.91(2) of the statutes and would include a mobile home or a structure complying with federal standards contained in 42 USC 5401 to 5425. 42 USC 5402 defines a manufactured home as one in traveling mode that has a width of eight feet or more and a length of 40 feet or more, or when erected on the site is 320 or more square feet.
- A recreational vehicle under section 340.01(48r) of the bill may not exceed 45 feet in length.

Section 101.91(2) requires a manufactured home to be certified by HUD under 42 USC 5401 to 5425. It is unclear how amendments to the size requirements under 42 USC 5402 would apply to property taxes. An older manufactured home certified under previous size requirements would allow it different treatment than a property of the same size that does not meet the current size requirements. At one time, the applicable dimensions were 32 feet in length.

Current law exempts recreational mobile homes and steps or a platform not exceeding 50 square feet from the monthly parking fee, but the bill does not include recreational vehicles in that exemption. If this exemption is intended to also apply to recreational vehicles, then a reference should be included in section 66.0435(3)(cm).

The bill would amend section 66.0435(9) of the statutes to include references to recreational vehicles in most instances covered by that section. However the bill does not add recreational vehicles to the exception that constitutes improvements to real property under section 70.043. If the exemption for real property improvements is intended to also apply to recreational vehicles, then a reference in section 66.0435(9) should be included to that effect. The title of section 66.0435(9) should be amended to include "recreational mobile homes" rather than "mobile homes," since the section applies to recreational mobile homes and not to mobile homes.

### Sales Tax

Section 77.54(31) exempts sales of used mobile homes that are primary housing from tax. Since the amendment to section 341.01(29) would limit the exemption to mobile homes built before June 15, 1976, language is needed to exempt sales of used mobile homes built after 1976 (i.e., used manufactured housing) from tax to maintain the exemption under current law.

Under current section 77.995(2), certain mobile homes are subject to State Vehicle Rental Fees ("limo taxes") regardless of their length. Mobile homes subject to limo taxes are rented for 30 days or less and without drivers by a company primarily in such a business. Under the bill, the range of vehicles subject to the tax is narrowed. If the intent is to maintain the taxability of mobile homes as under the current law, language is needed to impose limo taxes on certain manufactured homes to include mobile homes greater than 45 feet long or manufactured after June 15, 1976.

Under current law, sections 77.51(4)(b)6. and 77.51(15)(b)5. exempt 35 percent of the price of a new mobile home as defined in section 340.01(29) from sales tax. Current section 77.51(4)(b)6. also exempts 35 percent of the sales price of a new mobile home that is transported in two sections and meets other conditions. Since "mobile home" refers to certain housing built before January 15, 1976, the exemption for sales of new "mobile homes" is no longer needed under the bill. Repealing sections 77.51(4)(b)6. and 77.51(15)(b)5. would not have a fiscal effect because sections 77.51(4)(b)7. and 77.51(15)(b)6., as amended by the bill, would provide replacement exemptions for purchases of new modular homes and new manufactured homes.

### Effective Date

The bill would be effective 18 months after publication. Generally, law changes that affect the treatment of taxable property, including the monthly permit fee, are set to be effective for assessments as of the annual statutory assessment date of January 1 following publication of the act, or the next subsequent January 1. The January 1 date allows the Department to train assessors and eliminates a change in treatment during the year.

If you have any questions regarding this technical memorandum, please contact Pam Walgren at 266-7817.

cc: Senator Lassa